

Apr. 24, 1996

[S. Con. Res. 55]

## ENROLLMENT CORRECTIONS—S. 735

*Resolved by the Senate (the House of Representatives concurring),* That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

(a) In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to sections 431 through 443, respectively.

(b) Strike section 1605(g) of title 28, United States Code, proposed to be added by section 221 of the bill, and insert the following:

“(g) LIMITATION ON DISCOVERY.—

“(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

“(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

“(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

“(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

“(i) create a serious threat of death or serious bodily injury to any person;

“(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

“(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

“(3) EVALUATION OF EVIDENCE.—The court’s evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

“(4) BAR ON MOTIONS TO DISMISS.—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

“(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.”.

(c) In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike “may” and insert “shall”.

(d) In section 620H(a), proposed to be inserted after section 620G of the Foreign Assistance Act of 1961, by section 326 of the bill—

- (1) strike “may” and insert “shall”;
- (2) strike “shall be provided”; and
- (3) insert “section” before “6(j)”.

(e) In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

- (1) in subsection (a)(1), insert “foreign” before “terrorist organization”;
- (2) in subsection (a)(2)(A)(i), strike “an” before “organization under” and insert “a foreign”;
- (3) in subsection (a)(2)(C), insert “foreign” before “organization”; and
- (4) in subsection (a)(4)(B), insert “foreign” before “terrorist organization”.

(f) In section 2339B(g), proposed to be added at the end of chapter 113B of title 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(g) In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

- (1) strike “by the Secretary of State” and insert “by the Secretary of the Treasury”;
- (2) strike “with the Secretary of the Treasury” and insert “with the Secretary of State”; and
- (3) add the words “the government of” after “engages in a financial transaction with”.

(h) At the end of section 321 of the bill, add the following:

“(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.”.

(i) In sections 414(b) and 422(c) of the bill, strike “90” and insert “180”.

(j) In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill strike “essential” and insert “important”.

(k) In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill, strike “security”.

(l) Strike section 431 of the bill and redesignate sections 432 through 444 as sections 431 through 443, respectively.

(m) In section 511(c) of the bill, strike “amended—” and all that follows through “(2)” and insert “amended”.

(n) In section 801 of the bill, strike “subject to the concurrence of” and insert “in consultation with”.

(o) In section 443, by striking subsection (d) in its entirety and inserting:

“(d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulations that shall be published on or before January 1, 1997.”.

Agreed to April 24, 1996.